

**STATE BOARD OF EDUCATION**

**STATE OF GEORGIA**

<b>M. O.,</b>	:	
	:	
<b>Appellant,</b>	:	
	:	
<b>vs.</b>	:	<b>CASE NO. 2004-47</b>
	:	
<b>LEE COUNTY</b>	:	
<b>BOARD OF EDUCATION,</b>	:	
	:	
<b>Appellee.</b>	:	<b>DECISION</b>

This is an appeal by M. O. (Student) from a decision by the Lee County Board of Education (Local Board) to uphold the decision of student disciplinary tribunal to expel him until the end of the first semester of the 2004-2005 school year after finding him guilty of drug possession and distribution on school grounds. The Student claims that the Local Board failed to follow its disciplinary policy. The Local Board's decision is sustained.

On February 5, 2004, school authorities at the Lee County High School became aware that the Student had given four bags of marijuana to another student while on campus. The Student was charged with possession and distribution of drugs. A student disciplinary tribunal was held on February 11, 2004. The tribunal found the Student guilty and expelled him until the end of the first semester of the 2004-2005 school year. The Local Board upheld the tribunal when the Student appealed. The Student then filed an appeal with the State Board of Education.

The Student claims that the maximum punishment he should have received is suspension for ten days. The Student's claim is wholly without merit.

The Local Board's policy regarding drugs provides that "[a] first offense that involves the distribution of drugs shall be handled as a third offense." It goes on to provide that "In the event of a third offense during the student's school career or if the student is charged with distribution or intent to distribute drugs, the student shall be automatically suspended from school for a period not to exceed (10) days. The procedures prescribed for the second offense will apply except that the hearing tribunal will impose long-term suspension from school, expulsion, or permanent expulsion." The Local Board's policy regarding a second offense provides for a ten-day suspension and referral to a disciplinary tribunal.

Under *Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729, 42 L.Ed.2d 725 (1975), a local board of education can suspend a student for up to ten days without a hearing. Due

process, however, requires a hearing if a student is to be suspended or expelled for more than ten days.

In the instant case, it is clear that the Local Board's policy relating to drug distribution requires referral to a tribunal for a hearing. The tribunal, upon a finding of guilt, "will impose long-term suspension from school, expulsion, or permanent expulsion." The punishment upheld by the Local Board was within the terms of its policy, i.e., expulsion until the end of the first semester of the 2004-2005 school year. The Student's attempt to limit the suspension to the pre-hearing ten-day suspension permitted by *Goss* and provided by the Local Board's policy completely overlooks the remainder of the policy when there is no language in the policy that would permit such a limitation.

Based upon the foregoing, it is the opinion of the State Board of Education that the Local Board's opinion followed its own policies, the Student received due process, and the Local Board did not abuse its discretion. Accordingly, the Local Board's decision is  
SUSTAINED.

This \_\_\_\_\_ day of August 2004.

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William Bradley Bryant  
Vice Chairman for Appeals